

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Nathan D. Clark,

Petitioner,

v.

Civil No. 12-421 (JNE/LIB)
ORDER

Tom Roy, Commissioner of Corrections,

Respondent.

In an Order dated March 19, 2012, the Court denied and dismissed without prejudice Petitioner's application for a writ of habeas corpus under 28 U.S.C. § 2254 (2006) and dismissed without prejudice Petitioner's Motion for Authorization. Rather than filing a Motion for Authorization for a Second Habeas Corpus Petition with the United States Court of Appeals for the Eighth Circuit, Petitioner appealed this Court's March 19, 2012 Order. After filing a notice of appeal, Petitioner sought leave to proceed in forma pauperis on appeal.

"An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3) (2006). A party demonstrates good faith by seeking appellate review of issues that are not frivolous. *Coppedge v. United States*, 369 U.S. 438, 445 (1962). Here, the Court denied Petitioner's application for a writ of habeas corpus because it was a second or successive petition that the Eighth Circuit had not authorized Petitioner to file. *See* 28 U.S.C. § 2244(b) (2006). Having failed to contest this conclusion with a reasoned, nonfrivolous argument, Petitioner has not demonstrated that he seeks "appellate review of any issue not frivolous." *Coppedge*, 369 U.S. at 445. The Court therefore certifies that Petitioner's appeal is not taken in good faith and denies his motion for leave to appeal in forma pauperis. Accordingly, IT IS ORDERED THAT:

1. Petitioner's motion to proceed in forma pauperis on appeal [Docket No. 11] is DENIED.

Dated: May 11, 2012

s/ Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge